

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Worker Adjustment and Retraining Notification Act.

6 Section 5. Definitions. As used in this Act:

7 (a) "Covered establishment" means any business enterprise
8 that employs, or has employed within the preceding 12 months,
9 75 or more persons.

10 (b) "Employer" means any person who directly or indirectly
11 owns and operates a covered establishment. A parent corporation
12 is an employer as to any covered establishment directly owned
13 and operated by its corporate subsidiary.

14 (c) "Layoff" means a separation from a position for lack of
15 funds or lack of work.

16 (d) "Mass layoff" means a layoff during any 30-day period
17 of 50 or more employees at a covered establishment.

18 (e) "Relocation" means the removal of all or substantially
19 all of the industrial or commercial operations in a covered
20 establishment to a different location 100 miles or more away.

21 (f) "Termination" means the cessation or substantial
22 cessation of industrial or commercial operations in a covered
23 establishment.

24 (g) "Employee" means a person employed by an employer for
25 at least 6 months of the 12 months preceding the date on which
26 notice is required, except that this Act does not apply to
27 employees who are employed in seasonal employment where the
28 employees were hired with the understanding that their
29 employment was seasonal and temporary.

30 Section 10. Notice.

31 (a) An employer may not order a mass layoff, relocation, or

1 termination at a covered establishment unless, 60 days before
2 the order takes effect, the employer gives written notice of
3 the order to the following:

4 (1) The employees of the covered establishment
5 affected by the order.

6 (2) The Department of Commerce and Economic
7 Opportunity and the chief elected official of each
8 municipal and county government within which the
9 termination, relocation, or mass layoff occurs.

10 (b) An employer required to give notice of any mass layoff,
11 relocation, or termination under this Act shall include in its
12 notice the elements required by the federal Worker Adjustment
13 and Retraining Notification Act (29 U.S.C. Sec. 2101 et seq.).

14 (c) Notwithstanding the requirements of subdivision (a),
15 an employer is not required to provide notice if a mass layoff,
16 relocation, or termination is necessitated by a physical
17 calamity or act of war.

18 Section 15. Violation; liability.

19 (a) An employer who fails to give notice as required by
20 paragraph (1) of subdivision (a) of Section 10 before ordering
21 a mass layoff, relocation, or termination is liable to each
22 employee entitled to notice who lost his or her employment for:

23 (1) Back pay at the average regular rate of
24 compensation received by the employee during the last three
25 years of his or her employment, or the employee's final
26 rate of compensation, whichever is higher.

27 (2) The value of the cost of any benefits to which the
28 employee would have been entitled had his or her employment
29 not been lost, including the cost of any medical expenses
30 incurred by the employee that would have been covered under
31 an employee benefit plan.

32 (b) Liability under this Section is calculated for the
33 period of the employer's violation, up to a maximum of 60 days,
34 or one-half the number of days that the employee was employed
35 by the employer, whichever period is smaller.

1 (c) The amount of an employer's liability under subdivision
2 (a) is reduced by the following:

3 (1) Any wages, except vacation moneys accrued prior to
4 the period of the employer's violation, paid by the
5 employer to the employee during the period of the
6 employer's violation.

7 (2) Any voluntary and unconditional payments made by
8 the employer to the employee that were not required to
9 satisfy any legal obligation.

10 (3) Any payments by the employer to a third party or
11 trustee, such as premiums for health benefits or payments
12 to a defined contribution pension plan, on behalf of and
13 attributable to the employee for the period of the
14 violation.

15 Section 20. Exceptions.

16 (a) An employer is not required to comply with the notice
17 requirement contained in subdivision (a) of Section 10 if the
18 Department of Labor determines that all of the following
19 conditions exist:

20 (1) As of the time that notice would have been
21 required, the employer was actively seeking capital or
22 business.

23 (2) The capital or business sought, if obtained, would
24 have enabled the employer to avoid or postpone the
25 relocation or termination.

26 (3) The employer reasonably and in good faith believed
27 that giving the notice required by subdivision (a) of
28 Section 10 would have precluded the employer from obtaining
29 the needed capital or business.

30 (b) The Department of Labor may not determine that the
31 employer was actively seeking capital or business under
32 subdivision (a) unless the employer provides the Department
33 with both of the following:

34 (1) A written record consisting of all documents
35 relevant to the determination of whether the employer was

1 actively seeking capital or business, as specified by the
2 Department of Labor.

3 (2) An affidavit verifying the contents of the
4 documents contained in the record.

5 (c) The affidavit provided to the Department of Labor
6 pursuant to paragraph (2) of subdivision (b) shall contain a
7 declaration signed under penalty of perjury stating that the
8 affidavit and the contents of the documents contained in the
9 record submitted pursuant to paragraph (1) of subdivision (b)
10 are true and correct.

11 (d) This Section does not apply to notice of a mass layoff
12 as defined by subdivision (d) of Section 5.

13 Section 25. Civil penalty. An employer who fails to give
14 notice as required by paragraph (2) of subdivision (a) of
15 Section 10 is subject to a civil penalty of not more than \$500
16 for each day of the employer's violation. The employer is not
17 subject to a civil penalty under this Section, however, if the
18 employer pays to all applicable employees the amounts for which
19 the employer is liable under Section 15 within 3 weeks from the
20 date the employer orders the mass layoff, relocation, or
21 termination.

22 Section 30. Civil action. A person, including a local
23 government or an employee representative, seeking to establish
24 liability against an employer may bring a civil action on
25 behalf of the person, other persons similarly situated, or
26 both, in any court of competent jurisdiction. The court may
27 award reasonable attorney's fees as part of costs to any
28 plaintiff who prevails in a civil action brought under this
29 Act.

30 Section 35. Reduction of penalty. If the court determines
31 that an employer conducted a reasonable investigation in good
32 faith, and had reasonable grounds to believe that its conduct
33 was not a violation of this Act, the court may reduce the

1 amount of any penalty imposed against the employer under this
2 Act.

3 Section 40. Powers of Director of Labor. In any
4 investigation or proceeding under this Act, the Director of
5 Labor has, in addition to all other powers granted by law, the
6 authority to examine the books and records of an employer.

7 Section 90. The Unemployment Insurance Act is amended by
8 adding Section 500.1 as follows:

9 (820 ILCS 405/500.1 new)

10 Sec. 500.1. Illinois Worker Adjustment and Retraining
11 Notification Act; federal Worker Adjustment and Retraining
12 Notification Act. Benefits payable under this Act may not be
13 denied or reduced because of the receipt of payments related to
14 an employer's violation of the Illinois Worker Adjustment and
15 Retraining Notification Act or the federal Worker Adjustment
16 and Retraining Notification Act (29 U.S.C. Sec. 2101 et seq.).

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.